



Drawback Simplification Newsletter

Trade Facilitation and Trade Enforcement Act of 2015

Section 906

February 2017

Background

On February 24, 2016, the President signed the [Trade Facilitation and Trade Enforcement Act of 2015](#), strengthening the capabilities of the U.S. Customs and Border Protection (CBP) to enforce U.S. trade laws and regulations, streamline and facilitate the movement of legitimate trade, and interdict non-compliant trade.

The Act of 2015 included a sweeping “game-changer,” for the CBP drawback program, providing numerous, significant enhancements to the drawback laws under 19 U.S.C. § 1313, long-sought over the past decade by both CBP and the trade. Section 906, *Drawback and Refunds*, of the Act goes far to strengthen the drawback legal framework and CBP’s ability to more accurately and objectively administer drawback

Updates

On February 2017 CBP and members from the trade completed a two day in person meeting discussing all facets of the new TFTEA drawback law. The meeting went well and there was consensus on many issues.

Transition Period

- By liberalizing, streamlining and simplifying drawback operations, the Act is expected to expand the number of drawback claims filed to CBP and amounts of duty, taxes and fees correspondingly refunded in coming years.
- The Act provides CBP with two-years from the date of enactment to fully implement the new law. As such, the changes promulgated by the Act will not take effect until Feb. 24, 2018, applying to drawback claims filed on or after that date. Until then, drawback claims must be filed under the drawback laws in effect prior to the enactment of the Act.
- The Act also provides for an additional one-year transition period, from Feb. 24, 2018 to Feb. 23, 2019, during which claimants may elect to file new drawback claims under either the existing, pre-Act or Act drawback regulations. As of Feb. 24, 2019, at the end of that one-year transition period, all drawback claims then must be filed according to the Act.

What is Changing?

- **EIGHT-DIGIT HTSUS / SCHEDULE B SUBSTITUTION STANDARD** – The Act redefines the drawback concept of “substitution” of exported goods for imports. This was completed by moving from the current, part number-based criteria, to use of a more objective eight-digit Harmonized Tariff Schedule of the United States (HTSUS) classification or Export Schedule B number. Line number validations will be implemented;
- **DRAWBACK REFUNDS** – Under current drawback rules, various types of drawback claim refunds are limited to up to 99 percent of only the duties paid on the imported merchandise, without recovery of taxes and fees. The Act now uniformly authorizes drawback refunds for 99 percent of duties, taxes and fees paid on imported merchandise for all types of drawback;

- **ELECTRONIC FILING** – The Act provides that two years after enactment, all drawback claims must be filed electronically. This will greatly mitigate the current level of burdensome manual drawback claim processing required of both CBP and the trade;
- **DRAWBACK RECORDKEEPING** – Currently, supporting drawback records must be maintained for a period of three years from the date of payment of the claim. Under the Act, all supporting records now must be maintained for three years from the date of liquidation of the claim, rather than from the date of payment;
- **DRAWBACK FILING** – Current drawback regulations set varied time requirements related to drawback document filing and recordkeeping, with the timing between the import and export documents at three years and the eventual submission of a claim to Customs at no later than three years from the date of export. Under the Act, the window for those operations and activities is uniformly simplified and expanded for all drawback claim types to five years from the date of importation to the filing of the drawback claim related to that import;
- **SUPPORTING, TRANSFER DOCUMENTS** – Current drawback law under 19 U.S.C. § 1313(j)(2) requires a Certificate of Delivery to be submitted as part of a drawback claim where an importer transfers merchandise to the drawback claimant or to a manufacturer who ultimately relied on the merchandise in submitting a drawback claim. The Act relaxes the transfer documentation rules by eliminating the Certificate of Delivery requirement and liberally stating that “business records kept in the normal course of business” will be sufficient to demonstrate the transfer of merchandise.

More Information:

Look for the Drawback Newsletter on this site. We intend to update this information every month. Please email OTDrawback@cbp.dhs.gov if you have any questions.

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